



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable R. C. Wilson  
County Auditor  
Gray County  
Pampa, Texas

Dear Sir:

Opinion No. O-4321

Re: Under the terms of the note described, can the payor make a payment at any time and stop the accruing of interest from that date?

Is there any regulation which would prevent the return of unearned interest which has been deposited in the County Available School Fund?

Your letter requesting the opinion of this department on the questions stated above reads as follows:

"Gray County sold its school land and took in payment therefor, a promissory note which recites that the payor had 'the privilege of paying at any time after twenty years from date - - with interest thereon from date until paid at the rate of six percent per annum, interest payable annually in advance as it accrues for value received.'

"August 1, 1940, the payor of the note paid the interest for one year in advance. On May 3, 1941, the maker of the note paid the entire principal of the indebtedness and has requested a refund of unearned interest from May 3 to August 1, which had been paid in advance. The money has been placed in the County Available School Fund.

"I assume that, under the terms of the note above quoted, the payor can make payment at any time and stop the accruing of interest from that date. Will you advise me whether I am correct in this assumption and whether there is any regu-

Honorable R. C. Wilson, page 2

lation which would prevent the return of unearned interest which has been deposited in the County Available School Fund."

A county is vested with the title to lands which have been granted to it for educational purposes. (Constitution, Article VII, Section 6) It may sell or dispose of them in whole or in part, in the manner to be provided by the Commissioners' Court. (Constitution, Article VII, Section 6; Article 2824, Vernon's Annotated Civil Statutes)

From the facts stated in your letter, we assume that twenty years have expired from and since the date of the contract involved. According to the terms of the contract, the interest was payable annually in advance. When the interest was paid in advance, it was paid in compliance with the contract. On August 1, 1940, the maker of the note above mentioned paid the interest for one year in advance. On May 3, 1941, the maker of said note paid the entire principal of the note. We do not think that this would change or alter the provisions of the contract which provided that the interest was to be paid annually in advance. Therefore, it is our opinion that there is no authority authorizing the refund or return of any portion of the interest to the party paying the same when paid in compliance with the contract.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams  
Assistant

AW:GO

APPROVED MAR 4, 1942  
/s/ GROVER SELLERS  
FIRST ASSISTANT  
ATTORNEY GENERAL

APPROVED OPINION COMMITTEE  
BY BWB  
CHAIRMAN